dered *res adjudicata* by a former judgment on the merits. *St. Louis K. C. & C. R. R. Co.* v. *Wabash R. Co.*, 152 Fed. 849; *Dowell* v. *Applegate*, 152 U. S. 327. But the defense of lack of jurisdiction is ordinarily not rendered *res adjudicata*. The judgment would be void. See 32 HARV. L. REV. 177. A decree, however, of a federal court lacking jurisdiction only because of no diversity of citizenship is not a mere nullity. *McCormick* v. *Sullivant*, 10 Wheat. (U. S.) 192; *Des Moines Nav. & R. Co.* v. *Iowa Homestead Co.*, 123 U. S. 552. The principal case would be correct even if such a decree were held void. On this assumption it would follow that if one of the parties fraudulently represented he was a citizen of another state, the judgment could be assailed collaterally. See 32 HARV. L. REV. 177. In the principal case, however, the parties actually were of diverse citizenship. The fraud related only to the actual ownership of the bonds. Furthermore, the case can be decided on a still shorter ground. There was a series of judgments. Even if the first judgment was void for want of jurisdiction, its owner, Y, was a nonresident and could give the federal courts jurisdiction to render a second judgment.

LEGACIES AND DEVISES — EXECUTORY DEVISES CONDITIONED ON FAILURE TO ALIENATE A FEE. — Testatrix devised property to A in fee with a gift over to B of all that remained at A's death. A predeceased the testatrix. *Held*, B is entitled to the property. *In Re Dunstan*, [1918] 2 Ch. 304.

Where an absolute devise or bequest of realty or personalty is made, a limitation on the gift is void. After an absolute interest nothing remains to be given — the limitation is repugnant. *Van Horne* v. *Campbell*, 100 N. Y. 287, 3 N. E. 316; *Burton* v. *Gagnon*, 180 Ill. 345, 54 N. E. 279. This is a doubtful rule, for the argument of repugnancy is meaningless. Furthermore a limitation over on a virtually absolute estate is valid where said estate is a life interest with a power of alienation. *Komp* v. *Thomas*, 81 N. J. Eq. 103, 85 Atl. 815; *Harlow* v. *Bailey*, 189 Mass. 208, 75 N. E. 259. So the court in the principal case properly rejected the repugnancy doctrine where it had the loophole that the first donee predeceased the testatrix — a view having judicial support. *Norris* v. *Beyea*, 13 N. Y. 273. See 2 REDFIELD, WILLS, § 278. This is manifestly a departure from the rule first alluded to and one that is plainly justifiable and ought to be extended to the case where the first donee does not predecease the testator or testatrix.

POWERS — EXECUTION OF POWER OF APPOINTMENT BY GENERAL DEVISE OR BEQUEST. — The testatrix in her will bequeathed "all my shares in the Halifax New Market Consolidated Stock Co." to a certain legatee and devised and bequeathed "all my real estate and all the residue of my personal property including any property over which I may have at the time of my death an absolute power of appointment to my trustees" upon certain trusts. The testatrix owned in her own name only part of the designated stock and possessed a general power of appointment over the remainder. *Held*, that the specific legatee is entitled to the stock covered by the power as against the residuary legatees. *Re Doherty-Waterhouse*, 119 L. T. R. 298 (1918).

At common law a general devise or bequest did not operate as the execution of a power of appointment unless such intention was in some way expressed in the will. *Hughes* v. *Turner*, 3 M. & K. 666; *Bennett* v. *Aburrow*, 8 Ves. Jr. 609; *Hollister* v. *Shaw*, 46 Conn. 248; *Patterson* v. *Wilson*, 64 Md. 193, 1 Atl. 68. A devise of realty which could not take effect except upon property comprised in the power, was a sufficient indication of intention to exercise the power. *Standen* v. *Standen*, 2 Ves. Jr. 589; *Stevens* v. *Bagwell*, 15 Ves. Jr. 139; *Keefer* v.